

GOVERNMENT OF TELANGANA

ABSTRACT

Tribal Welfare Department - Khammam District- Revision Petition filed under Regulation 6 of APSALTR, 1959 by Sri Kodumuri Raghavaiah S/o Venkaiah R/o Pedamati Narsapuram (V), Julurupadu (M) Erstwhile Khammam District and his son before the Government of AP Hyderabad aggrieved by the orders dated:15-04-2003 in C.M.A No:33/2001 of the Agent to Government, Khammam District - Rejected - Orders - Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No.49

Dated:27-10-2018,
Read the following:-

- 1)Revision Petition filed Sri Sri Kodumuri Raghavaiah S/o Venkaiah R/o Pedamati Narsapuram (V), Julurupadu (M) Erstwhile Khammam District and other Dt:09.06.2003.
- 2)Hon'ble High Court, Hyderabad orders dated 12.06.2003 in WP No.10745 of 2003.
- 3)Govt.Memo.No.75122/LTR-2/2003,Dt:19.08.2004.
- 4)From the District Collector, Khammam District.Lr.Rc.No.F2/CMA/33/2001 (WP 10745/2003),Dt:13-06-2008.
- 5)Govt.Lr.No.75122/LTR-2/2003,Dt:02-09-2009, 06-03-2010, 10-06-2010 & 15.06.2017, 29.08.2017 & 09.02.2018.

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ORDER

In the reference 1st read above, Sri Kodumuri Raghavaiah S/o Venkaiah R/o Pedamati Narsapuram (V), Julurupadu (M) Erstwhile Khammam District and his son filed Revision Petition before the Government of Andhra Pradesh, Hyderabad through their counsel aggrieved by the orders dated:15-04-2003 in C.M.A No:33/2001 of the Agent to Government, Khammam District in respect of land to an extent of Ac.10.20 gts. in Sy.No.85 of Padamati Narsapuram(V), Julurupadu Mandal, Khammam District.

2. In the reference 3rd read above, the District Collector, Khammam cum Agent to Government, Khammam was requested to furnish Para Wise Remarks and connected case records and in the reference 4th read above the Agent to Government-cum-District Collector, Khammam District has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as follows:

- The order under revision is contrary to law, weight of the evidence and probabilities of the case as such liable to be set aside. Both the authorities failed to give proper opportunity to the Petitioner before passing the impugned order which is violation of principles of natural justice.
- The Appellate Authority should have seen that appeal is filed by unofficial respondents in the year 2001 against the order dt:06.07.1979 after a period of 22 yrs. Without any petition condone the delay and no reason is mentioned why the appeal is filed so belatedly, which is not maintainable and cannot be entertained as held by the Hon'ble High Court in a decision reported in 1999(6) ALD 718. More so proceedings under same enactment were initiated in the year 1990.
- The Appellate Authority unnecessarily without any jurisdiction gone into the question of validity of sale on the ground of not duly stamped and not registered which aspect can only be gone into by the competent Civil Court as held by the Hon'ble High Court in a decision reported in 1999(6) ALD 718.
- The Appellate Authority should have seen that the petitioner filed all relevant documents in support of his case that is why original authority after considering same dismissed the petition filed by unofficial respondent and dropped the proceedings.

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- The Appellate Authority should have seen that the petitioner is not responsible and cannot be penalized for the acts of the Revenue Officials for not maintaining the records properly and petitioner's land cannot be taken away in such fashion for the negligence of Revenue Officials who are maintaining the records.
- The Appellate Authority should have seen that the sale in favour of petitioner No.1 is much before the commencement of APSALTR, as such authorities have no power and jurisdiction to initiate proceedings under the same and more so, the appeal filed by unofficial respondents belated cannot be entertained.
- The Appellate Authority should have seen that even the Land Reforms Tribunal under Andhra Pradesh Land Reforms (Ceiling on Agrl. Holdings) Act, 1973, by order dt:03.11.1976 in CC.No.574/KGM/75 held that land in dispute belongs to petitioner and taken possession of 2.28 gts. of land.
- The Appellate Authority cannot assume and presume things against the petitioner just because records are maintained in different inks and deprived of his land purchased with his hard earned money and developed the same in the long years that has passed and petitioner do not have any other land except this land for eking out his livelihood and requested to set-aside the order dt: 15.4.2003 in CMA No. 33/2001.

4 The remarks of the Agent to Government, Khammam on the revision petition are as under:

- The Appellate Authority in his order clearly stated that as per Revenue Records the name of Sri Maloth Damiya is existing in the Pattedar column for Sy.No.85 for the years 1968-69, 1992-93, 1994 and thereafter the names of Maloth Bavasingh, Maloth Chandri are existing as Pattadars whereas the name of Kodumuri Raghavaiah is existing in occupants column, during 1968-69, 1969-70, which is a crucial period of Regulation that too with different inks and hand writings, further the names of Revision Petitioners are also existing in occupants column for the years 1970-71, 1971-72. Sri Maloth Damiya is existing in occupants column for the years 1972-73 to 1976-77. Thereafter the present respondents 1&2 are appearing in occupants column. From the above, it clearly appears that, the Revision Petitions in order to save their possession over the land from the Regulation, have tried to get entered their names in occupants column of the Pahani, but this was done with different inks and hand writing with malafied intention.
- Therefore, it is clear that they have manipulated to come up on record by creating a document of sada sale agreement after the regulation 1/70 came into force. The sada sale agreement alleged to have been executed on 20-03-1965 on Rs.2/- . Non-Judicial stamp did not cover the requisite principals such as name of the seller, date of sale and name of the purchaser. Further the Revision Petition fail to file/produce the original sale agreement during the course of trial of the case. Thus, it is evident that this document was got prepared in hurried manner with malafied intention. It is an ordinary ale agreement which cannot be admitted under following circumstances:
 1. *Sada Sale deed is not duly stamped and registered under section 17(B) of Registration Act, cannot be admitted as an evidence, as observed by the Hon'ble High Court in CRP No.1087/96, dt. 10.08.1998, (in Bangaru Rama Tulisamma V/s Yada Mastan Reddy and others case).*
 2. *It is a well-settled law that right title and interest of the vendor extinguished only by executing deed of conveyance duly registered under Registration Act. Hence, it cannot be admitted, as primary or substantive evidence, if any other primary proof exists.*

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3. *U/S 54 of Transfer of Property Act, delivery of tangible immovable property of the value of Rs.100/- and upward or in case of reversion or other intangible thing can be made only by a registered instrument. In the instant case, it is an agreement of sale of immovable property worth Rs. 1470/-. So it requires registration.*

- As per Xerox copy of the order passed by the land Reforms Tribunal at Kothgudem vide Lc.No.574/KGM/75, dt:18-12-1975, it is evident that, the respondent herein filed a declaration under Land Ceiling Act, 1973 and determined that, the declarant holds 0.0455 standard holding excess of the ceiling area which is liable to surrender u/s 9 of the Act. Since the declarant (Respondent herein) failed to file the details of the lands which proposed to surrender, the tribunal itself selected the excess land in Sy.No.85 of the Padamati Narsapuram village which was furnished by the declarant (Resp. herein) for an extent of Ac. 2.28 gts. out of the area Ac. 10.20 gts.
- From the above, it is clear that since the respondent failed to file the details of the land, which he proposes to surrender under section (9) of the Act., the tribunal itself selected the excess land from out of the Sy.No.85, for an extent of Ac.2.28 gts, without observing genuinity of the sale agreement filed by the declarant (Respondent herein) and the prohibition of transfer of land in Agency Areas under regulation 1/59 read with regulation 1/70 are prevailing in the schedule areas.
- Thus it goes to show, that the respondent herein has misrepresented the matter before the tribunal as if he is the rightful owners and got orders of surrender to an extent of Ac.2.28 gts under the Act. The tribunal did not go in to the merits of genuinity of the sale agreement and the transfer of land Acts and other Acts prevailing in the scheduled area have passed erroneous orders. The land so surrendered by the declarant (Respondent herein) was assigned to the eligible tribal beneficiaries by collecting certain amount as land value as per the rules and the same was paid to the respondent herein towards land compensation. Thus the Land Reforms Tribunal passed orders erroneously in the matter.
- From the above it is clear that, the Revision Petition failed to establish his clear legal tittle over the land under dispute by producing corroborative evidence to substantiate his legal right. Therefore the contentions raised in this Para by the Revision Petitions need not be considered as they do not carry valid material.
- The Village Padamati Narasapuram has been notified as schedule area under the presidential order dated:27-12-1950 vide SRO.No.1031. As such the regulation 1/59 read with amended Regulation 1/70 under LTR is applicable to this village also. As the schedule areas are under the immediate control of the Agent to Government (District Collector) they are also called as Agency areas. Further U/s 3,2 (a) clearly defines that “where a transfer of Property is made in contravention of Sub-section (1) the Agent, the Agency Divisional Officer or any other prescribed officer may, on application by anyone interested, or on information given in writing by a public servant, or Suo-moto decree ejectment against any person in possession of the property claiming under the transfer, after due notice to him, in the matter prescribed and may restore it to the transferor or his heirs”. From the above it is clear that, the Agent or Agency Divisional Officer or any other prescribed Officer may on application by anyone interested or on information given in writing by a public servant or Suo-moto can entertain any application or an appeal that is made by the tribals are liable to be restored the land which is under the possession of Non-Tribal in contravention of provisions of LTR. Therefore the contention raised by the Revision Petitioner alleging that, the appeal filed by the respondents 1&2 therein after laps of (22) years is baseless and comes

under violation of Land Transfer Regulation Act. Further special Acts are prevailing in schedule area and there is every need to protect the interest of the Tribal, particularly under land laws. Therefore the contentions raised in these paras by the Revision Petitioners are not maintainable.

- Under the above circumstances it is submitted that, the order passed by the Agent to Government is based on the Laws in force in schedule area and it touched all corners of the Act and every care has been taken and accordingly passed orders on 15-04-2003 in CMA. No.33/2001.
- Therefore in view of the above it is prayed that, the Hon'ble Government may be pleased to dismiss the Revision Petition in the interest of Justice.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Government, it is observed that;

- The Revision Petition claims that he has purchased Ac.10.20 gts in Sy.No.85 of Padmati Narsapuram (v), Julurpadu Mandal from Sri Malothu Dhanja and Nenavathu Vasuram in the year 1965 and that the Respondents Sri Maloth Bhavsingh and Malothu Sakru (Respondents) are sons of Dhanja. He challenged the orders passed by the Agent to Government Khammam in CMA No.33/2001 Dt 15.04.2003.

Perused the records, As per records;

- Maloth Dhanja was Pattedar from 1968-69 to 93-94.
- Maloth Bhav Singh, Maloth Chaudru and Maloth Nagu are existing Pattedars.
- Sri Kodumuri Raghavaiah and his son Kodumuri Madhusudan Rao are only enjoyers of the land.
- The Revision Petition produced a sada sale deed/agreement dt 20.03.1965.
- In case he had really purchased the land in the year 1965, he should have got the land registered in his name. Since, the Land Transfer Regulation was not inforce in the year 1965.
- Hence his claim as purchaser is not sustainable.

6. Government after careful examination of the matter hereby rejects the Revision Petition filed by Sri Kodumuri Raghavaiah S/o Venkaiah R/o Pedamati Narsapuram (V), Julurupadu (M) Erstwhile Khammam District and his son and upholds the orders of the Agent to Government and District Collector, Khammam dated: 15-04-2003 in C.M.A No:33/2001.

7. The Agent to Government-cum-District Collector, Khammam District shall take necessary further action accordingly. The original case records received in the reference 4th read above are returned herewith to the Agent to Government-cum-District Collector, Khammam District.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,
SECRETARY TO GOVERNMENT

To

- 1) Sri Kodumuri Raghavaiah S/o Venkaiah R/o Pedamati Narsapuram (V),
Julurupadu (M) Erstwhile Khammam District
- 2) Sri Kodumuri Madhusudhan Rao S/o Raghavulu
R/o Padamati Narsapuram (V), Julurupadu (M) Kothagudem District.
- 3) Sri Maloth Bhava Singh S/o Dhanjya
R/o Padamati Narsapuram (V), Julurupadu (M) Kothagudem District.

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4) Sri Maloth Sakru S/o Dhanjya

R/o Padamati Narsapuram (V), Julurupadu (M)Kothagudem District.

5) The Agent to Government-cum-District Collector, Khammam District(w.e.)

Copy to :

The Government Pleader for Social Welfare, High Court Buildings, Hyderabad.

The Project Officer, ITDA and Additional Agent to Government,

Bhadrachalam, Bhadradi Kothagudem District

The Government Pleader for Social Welfare, High Court Builds, Hyderabad.

The Special Deputy Collector(TW), Bhadrachalam,

Now Bhadradi Kothagudem District for information and necessary action.

The Tahsildar, Julurpadu Mandal, Badradri Kothagudem District

for necessary action.

Sri A.Rajashekar Reddy,Advocate,

Plot No.105, Saraswathi Nagar, Saidabad,

Hyderabad District (Ph.24074395)

P.S to M(TW)/P.S. to Secretary(TW)

SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER

